

Service Date: May 3, 1989

DEPARTMENT OF PUBLIC SERVICE REGULATION
BEFORE THE PUBLIC SERVICE COMMISSION
OF THE STATE OF MONTANA

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IN THE MATTER of the Application)	
of MOUNTAIN STATES TELEPHONE AND)	UTILITY DIVISION
TELEGRAPH (U S WEST Communications)	
or Mountain Bell) for a General)	DOCKET NO. 88.1.2
Rate Increase.)	

IN THE MATTER of the Application)	
of MOUNTAIN STATES TELEPHONE AND)	
TELEGRAPH (U S West Communications)	
or Mountain Bell) for Authority to)	DOCKET NO. 88.9.33
Incorporate An 800 Service Circuit)	
Termination on a Centron 6 or 30)	
Service.)	

IN THE MATTER Of The Application)	
Of MOUNTAIN STATES TELEPHONE AND)	
TELEGRAPH (Mountain Bell or U S)	DOCKET NO. 88.8.44
West Communications) for Authority)	
To Incorporate Revised Directory)	
Assistance Tariffs Into Its Tariff)	
To State Alternative Terms of)	ORDER NO. 5354c
Service For Customers of Independ-)	
ent Local Exchange Carriers.)	

ORDER ON SECOND MOTION FOR RECONSIDERATION
BY U S WEST COMMUNICATIONS

FINDINGS OF FACT

On January 22, 1988 US West Communications (USWC) (formerly Mountain Bell) filed an application for a general rate

increase with the Montana Public Service Commission (MPSC or Commission). The Applicant requested rate increases to produce an additional \$13.9 million in annual revenues.

On June 30, 1988 USWC filed an updated final rate request. The revised filing requested additional annual revenues of \$17.5 million. USWC requested that \$10.1 million of this increase be granted on an interim basis, pending a final decision.

On September 19, 1988 the Commission granted USWC additional revenues of \$6,366,000 to recover the additional intrastate revenue requirement associated with FCC mandated 1988 separations shifts, the Uniform System of Accounts rewrite costs and TECOM carrier access rate increases.

Hearings were held on the issues in this docket from December 5-16, 1988.

On January 19, 1989 a stipulation between USWC and Montana Consumer Counsel (MCC) was submitted to the Commission. The stipulation represents an agreement between those two parties to dispose of the revenue requirement issues of this case. The stipulation states that a permanent rate award of \$5.5 million in this docket will result in rates that are not excessive and that are otherwise reasonable.

On December 2, 1988 USWC filed an application for authority to increase rates to recover the intrastate revenue requirement associated with 1989 separations changes.

At the same time, USWC filed an application for interim relief pursuant to Section 69-3-304, MCA, and the Commission Rules, ARM Section 38.5.501 et seq., which addresses the granting of interim relief.

Both the application for permanent and interim relief request to increase rates sufficiently to recover an additional \$3,095,000 in annual revenues.

On March 3, 1989 the Commission found merit in the stipulation filed on January 19, 1989, and issued Order No. 5354a, in Docket No. 88.1.2, granting the revenue terms in that stipulation. At the same time, the Commission granted USWC interim relief in Docket No. 88.12.55 through Order No. 5398. Taken together these two orders allow USWC additional annual revenues of \$2,229,000 on an interim basis.

The rate design granted by the Commission to recover the \$2.2 million was broken down into Listings, New Number Referral Service, Directory Assistance (allowing 3 free calls per month and \$.40 per call thereafter), Special Access, and the institution of a 1 percent per month Late Payment Charge (LPC) with several qualifications listed in Finding of Fact No. 36 in Order No. 5354a, in Docket No. 88.1.2 et al.

On March 8, 1989 USWC filed a Motion for Reconsideration regarding the prohibition against compounding the LPC in Finding of

Fact No. 36 of Order No. 5354a. On March 20, 1989 the Commission granted the motion to permit compounding of the LPC (Order No. 5354b).

On March 23, 1989 USWC filed a second motion for reconsideration regarding Finding of Fact No. 36 of Order No. 5354a. USWC requests that the 10 day limit for filing a motion for reconsideration (ARM 38.2.4806) be waived by the Commission pursuant to ARM 38.2.305. USWC contends that it could not reasonably have been expected to seek reconsideration within 10 days because the Company misinterpreted the intent of the Commission's order and the need for clarification did not come to its attention until the Commission staff refused to approve the LPC tariffs which it filed.

In its motion, USWC requests that "deferred payment arrangements" be subject to the LPC. USWC states that it interprets the "alternative payment arrangement agreement" exemption to the LPC found in Finding of Fact No. 36 of Order No. 5354a to include 1) installment payment of installation charges, 2) Preferred payment date arrangements, and 3) written contracts with payment schedules for construction of facilities to provide service. USWC Brief, p. 2. USWC states that it did not contemplate that "alternative payment arrangement agreements" would include what it refers to as "deferred payment arrangements" -- i.e. situations in which a disconnection for nonpayment is avoided following negotiation of a payment schedule with a customer. Id. pp. 2-3. USWC contends that this exemption from the LPC would encourage customers to seek such arrangements. Id. pp. 3-4. The Company also argues that this exemption would preclude it from collecting its authorized revenues. Id. p. 4. Finally, USWC

states that implementation of the exemption would involve additional administrative and computer costs. Id. at p. 4.

The Commission finds USWC to be a proper party in this proceeding. USWC's motion was not filed in a timely manner, but the Commission finds that the interests of justice are best served by granting a waiver of the 10 day rule in order to consider the merits of the Company's motion. No other party has filed a reply or opposition to the instant motion.

The Commission notes that the record in this proceeding does not include a revenue impact for the imposition of the "alternative payment arrangement agreement" exemption. For the above reason only, the Commission will grant the instant motion and allow the application of the LPC to what the Company terms "deferred payment arrangements."

The Commission rejects the Company's other arguments in support of its motion. Specifically, the Commission takes exception with the Company's position that the LPC exemption for alternative payment arrangements would encourage customers to seek such arrangements simply to avoid the LPC. The Commission finds it implausible that a customer would expend the time and effort to seek a payment arrangement for a delinquent account (in excess of \$25) solely to avoid a 1 percent per month additional charge, as opposed to the obvious motivation of avoiding disconnection of service. In Finding of Fact No. 35 of Order No. 5354a, the Commission expressed its concern that customers with financial limitations may pay a disproportionate share of the total LPC revenues. Application of the LPC to "deferred payment arrangements" may tend to aggravate such an effect.

The Company also urges the Commission to consider that "implementation of a practice of excluding deferred payment arrangements from the LPC would require considerable time and effort" and "a new program would have to be developed to permit the tracking of these accounts outside of USWC's normal billing system." USWC Brief, p. 4. The Commission finds that the record is silent as to any additional costs which may be incurred by USWC in implementing this exemption. It would be improper to consider any new evidence on a motion for reconsideration. Therefore, the Commission refuses to consider these allegations at this time.

The Commission, in order to clarify its intent as requested by the Company, now defines "alternative payment arrangement agreement" as that term is used in Finding of Fact No. 36 of Order No. 5354a, to include the following:

- a. Preferred payment date arrangements,
- b. Written contracts with payment schedules for construction of facilities to provide service,
- c. Installment payment arrangements -- for installation charges, deposits, service and equipment charges, and any other pertinent charges for initiation or installation of service. (See MST&T Exchange and Network Services Tariff, Section 2.3.5.A.)

The Commission continues to have some concerns regarding the application and effects of the LPC (See Order No. 5354a, Finding of Fact Nos. 33-36) which it wishes to address in a future proceeding.

CONCLUSIONS OF LAW

1. USWC offers regulated telecommunications services in the State of Montana and is a public utility pursuant to < 69-3-101, MCA.

2. The Commission has the authority and jurisdiction to supervise, regulate and control public utilities. < 69-3-102, MCA.

3. The Second Motion for Reconsideration of Order No. 5354a was not filed by USWC in a timely manner pursuant to ARM 38.2.4806, but the interests of justice are best served by granting a waiver pursuant to ARM 38.2.305 to consider the motion on its merits.

4. The exemptions from the Late Payment Charge set forth in Order No. 5354a should be modified as described herein. ARM 38.2.4806(3)

ORDER

1. USWC's motion for a waiver of the 10 day limit for filing a motion for reconsideration is hereby granted.

2. USWC's Second Motion for Reconsideration, requesting that the LPC apply to deferred payment arrangements, is hereby GRANTED.

3. The Commission has herein clarified the intent of Finding of Fact No. 36 of Order No. 5354a. The Commission hereby adopts and incorporates Finding of Fact No. 18 by reference herein. The situations described therein are hereby specifically found to be exempt from the LPC.

4. The Late Payment Charge approved in Order No. 5354a, as modified by Order No. 5354b and clarified in this Order, shall be operative upon filing and approval by the Commission.

Done and Dated this 3rd day of May, 1989 by a vote of

BY ORDER OF THE MONTANA PUBLIC SERVICE COMMISSION

CLYDE JARVIS, Chairman

JOHN B. DRISCOLL, Commissioner

HOWARD L. ELLIS, Commissioner

WALLACE W. "WALLY" MERCER, Commissioner

DANNY OBERG, Commissioner

ATTEST:

Ann Purcell
Acting Commission Secretary

(SEAL)

NOTE: You may be entitled to judicial review in this matter.
 Judicial review may be obtained by filing a petition for
 review within thirty (30) days of the service of this
 order. Section 2-4-702, MCA.